

## **RESOLUTION NO. 2014-06**

A RESOLUTION ADMONISHING THE EXECUTIVE BRANCH OF THE GOVERNMENT OF THE UNITED STATES TO REFRAIN FROM ANY ACTION UNDER THE ANTIQUITIES ACT OR OTHER AUTHORITY WITHDRAWING, SETTING ASIDE, RESERVING OR DESIGNATING ANY ENERGY POTENTIAL AREA IN CARBON COUNTY, UTAH WITHOUT TIMELY CONSENT BY LOCAL, STATE AND CONGRESSIONAL DELEGATION AUTHORITIES, TIMELY AND APPROPRIATE NEPA STUDY AND REPORTS, AND TIMELY APPROVAL BY JOINT RESOLUTION OF CONGRESS AND TERMS TO IMPLEMENT CONGRESSIONALLY APPROVED SPECIAL DESIGNATIONS IN CARBON COUNTY

### **INTRODUCTION**

#### **Carbon County's Energy Zone and the analogy of ANILCA's Coastal Plain**

Carbon County has a rich history of mineral extraction and production. A large portion of Carbon County's energy producing lands are part of the Green River Formation, a geological formation spread across Wyoming, Colorado, and Utah, known to be the most plentiful oil shale reserve in the world. The Green River Formation lands within Carbon County also contain vast deposits of natural gas, coal, and oil. To protect this resource, Carbon County created the Carbon County Energy Zone, a formal amendment to the Carbon County Master Plan that creates an overlay zone that recognizes and prioritizes uses of the land such as mineral extraction, processing and transportation. This overlay zone has in fact been recognized by the Utah State Legislature and is codified in Utah Code Annotated Section 63J-8-105.7. It is the intent of the Carbon County Board of Commissioners to take all steps to preserve the possibility of mineral extraction and associated industries within the Carbon County Energy Zone.

To further the purposes of the Energy Zone, and to bolster the protections that it was intended to afford, Carbon County urges the federal government not to permanently withdraw any lands from mineral extraction purposes under the Antiquities Act, unless it first meets the requirements for withdrawal imposed by Congress in the coastal plain area of the Arctic National Wildlife Refuge (ANWR) – another area rich in mineral extraction potential, and recognized by Congress to be too valuable to permanently lock away. The executive branch of the federal government should look upon Carbon County as an analogous situation and should follow the same limitations imposed by legislation pertaining to ANWR's coastal plain.

#### **ANILCA's restrictions on withdrawals from the Coastal Plain**

The Alaska Natural Interest Lands Conservation Act, when passed in 1980, set aside National Parks, wilderness areas, and wildlife refuges within Alaska. One of the wildlife reserves created by ANILCA was ANWR. Within ANWR an area known as the "Coastal Plain" was reserved as a special study area, for the purpose of determining its natural resource potential and its environmental values. Recognizing its rich energy potential, Congress specifically declared that the coastal plain could not be permanently withdrawn from leasing or sell for mineral extraction. Specifically, the language provided that,

“No future Executive Branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the state of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the president or the secretary may withdraw public lands within the state of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not be effective until notice is provided in the federal register and in both houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.”

ANILCA section 32-13a’s prohibition of withdrawal in the coastal plain of ANWR illustrates how Congress and the Executive branch should apply the Antiquities Act generally. Carbon County believes the same consideration should be provided to its energy rich lands, and that unilateral executive withdrawals should not be made permanent without the specific approval of Congress. Specifically, Carbon County believes that both houses of Congress should affirm any Presidential withdrawal of lands from mineral extraction, development, or leasing, unless such withdrawal is approved by both houses of Congress within one year of such withdrawal having been made.

### **Finding of Carbon County**

Consistent with the foregoing, it is the finding of the Carbon County Board of Commissioners that no unilateral federal executive branch withdrawal, set aside, reservation, resignation or similar action should occur, whether under the Antiquities Act or otherwise, for the following lands in Carbon County, Utah:

All lands found to have potential for oil, gas, tar sands, oil shale and coal development, including the entire Green River Formation, identified and formally placed into an Energy Overlay Zone by action of the Carbon County Board of Commissioners, ordinance number 449, adopted September 19, 2012, and further codified by the Utah State Legislature into Utah Code Annotated Section 63J-8-105.7.

## **RESOLUTION**

**NOW THEREFORE the Carbon County Board of Commissioners do hereby RESOLVE as follows:**

- A. The Government of the United States is hereby admonished to refrain from any future Federal executive branch action, including the use of the Antiquities Act, to withdraw more than five thousand acres in the aggregate of public lands with energy potential within Carbon County, Utah unless such action is consistent with the following paragraph B of this resolution.
- B. Any Federal executive branch action to that attempts to permanently withdraw, set aside, reserve or designate land with energy potential in Carbon County, Utah consisting of

more than five thousand acres in the aggregate, shall first timely satisfy steps one through four below are fully and timely completed:

1. Written notice of such proposed action is made in the Federal Register;
  2. Within 90 days of such written notice referenced in sub-paragraph one above, the following shall give written approval and consent to such action:
    - a. The Carbon County Board of Commissioners
    - b. The Governor of the State of Utah
    - c. The President of the Utah Senate
    - d. The Speaker of the Utah House of Representatives
    - e. Each member of the Utah Congressional Delegation
    - f. If written approvals and consents do not issue from the entities named in sub-parts (a) through (e) above within 90 days of such Federal Register written notice, the proposed action would be deemed invalid and of no effect;
  3. Within one year of issuance of the written approvals and consents referenced in sub-paragraph (2) above, the following shall occur:
    - a. National Environmental Policy Act (NEPA) compliance is achieved by the federal land management agency agencies responsible for the management of the land subject to the proposed action;
    - b. If NEPA compliance is not achieved within 1 year of the issuance of such written approvals and consents, the proposed action would be deemed invalid and of no effect.
  4. The proposed action should be deemed invalid and of no effect unless Congress passes a joint resolution of approval within one year after issuance of the record of decision in the NEPA process referenced in sub-paragraph (3) above.
- C. Carbon County also opposes any Congressional legislation to make special designations of federally managed land in Carbon County such as wilderness designations, wild and scenic river designations, national conservation areas, or other special land withdrawals, set asides, reservations or designations without public written support for such legislation from the following:
- a. The Carbon County Board of Commissioners
  - b. The Governor of the State of Utah
  - c. The President of the Utah Senate
  - d. The Speaker of the Utah House of Representatives
  - e. Each member of the Utah Congressional Delegation


1. Within one year of issuance of the written approvals and consents referenced in paragraph (C) above, the following occurs:
  - a. National Environmental Policy Act (NEPA) compliance is achieved by the federal land management agency agencies responsible for the management of the land subject to the proposed action;
  - b. If NEPA compliance is not achieved within one year of the issuance of such written approvals and consents, the proposed action would be deemed invalid and of no effect
2. Any Special designation status should be deemed invalid and of no effect unless Congress designates the same by act within one year after issuance of the record of decision in the NEPA process referenced in sub-paragraph one above.

**PASSED AND ADOPTED** by the County Commission of Carbon County, State of Utah.

On this 6 day of August, 2014.

**CARBON COUNTY**, a political subdivision of the State of Utah

  
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Jae Potter, Commission Chairman

Attest:   
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Seth Oveson, County Clerk

